

Present were: Anderson (Chair); McDonough (Clerk); Brown (Member); Baime and Ranalli (Associate Members).

The meeting opened at 7:12 p.m.

Petition No.: 3882

Premises affected: 43 River Road

Petitioner: T-Mobile

Members: Baime, McDonough, Ranalli, Matey, Brown

Anderson recused himself from the hearing. Brown made a motion to close the continued public hearing. McDonough seconded the motion and the Board voted (5-0) to close the hearing. The Board then proceeded to deliberate. Brown made a motion to find that the proposed tower is not unreasonably detrimental to the established or future character of the neighborhood and town and that such is in harmony with the general purpose and intent of this by-law and therefore to grant the special permit under section 6.1.2 for the tower, antenna, equipment, and to allow the decreased setback subject to the conditions set forth in the draft decision, as revised by Town Counsel. Baime seconded the motion. Brown noted further formatting & punctuation revisions an electronic copy of which was submitted to the administrative secretary. The Board voted (5-0) to grant the special permit with conditions as revised by Town Counsel and Brown.

Petition No.: 3901

Premises affected: 134 Elm Street

Petitioner: Conte / Fournier

Members: Anderson, Baime, McDonough, Ranalli, Brown

Marc Fournier represented himself & his wife in their request for a special permit to use an existing in-law apartment in the house they purchased in February 2010. They have several family members in need of care/supervision & would like to reestablish the special permit. Fournier showed the Board pictures where the interior door connecting the unit to the main house had existed. The only change will be to replace the door. The unit consists of a bedroom, bathroom, sitting area & kitchen with microwave. The previous owners used it for their mother. It appears no special permit for the use was obtained previously. Fournier has spoken with neighbors, none of whom voiced any opposition. Anderson explained that special permits for family dwelling units are granted for a maximum of 5 years or until there is a change in the situation, whichever is sooner, and must be renewed or removed. Fournier explained that they have two sets of relatives who can use the unit. McDonough made a motion to approve the special permit. Baime seconded the motion stating that the special permit be valid for 5 years and must be renewed or removed when the need ceases. The Board voted (5-0) to approve the special permit with conditions. Brown will write the decision.

Petition No.: 3902

Premises affected: 98 Elm Street

Petitioner: DiMeco

Members: Anderson, Baime, McDonough, Ranalli, Brown

Leland DiMeco represented himself and his wife, Suzanne, in their request for a variance from section 4.1.2 &/or a special permit from section 3.3.5 to construct a single story addition + deck that will not meet the minimum side setback. The addition would be a laundry / bathroom with rear yard exit onto a deck. They wish to add the first floor bathroom for the safety and convenience of extended family (currently the only bathroom is on the second floor & the laundry is in the basement). The rear yard entry & deck will also increase functionality for direct access from the rear yard. Anderson pointed out that the existing corner side setback is 8', while the proposed would be 4.83. It is unclear from the plot plan what the existing rear setback of the porch. Anderson stated that if the proposed addition is closer than the existing, then a variance is required. The distance between the direct abutter's house and the lot line is 25'. There is a fence on properties, as well as some shrubbery and a large

oak providing landscape buffering. Mr. & Mrs. Henry, direct abutters at 100 Elm Street, commented that the lot line is very close to #98 (built in 1922). Mr. Henry voiced his opposition due to proximity to lot line & invasion of privacy. Frank Symoset, rear abutter at 6 Lockway Rd., voiced opposition. The Board discussed the need for such a large deck as opposed to a landing with stairs. Mrs. Henry, 100 Elm St., voiced her support of the bathroom addition, stating she is not in favor of the entire deck addition. Anderson showed the plans to the abutters and explained the variance and special permit criteria as well as what could be done under a special permit. Brown pointed out that the house was constructed prior to the adoption of the Zoning Bylaw. Anderson added that it was legal at the time it was constructed. DiMeco showed the Board the layout of the house on the plot plan. The Board then waived a site view (Brown had driven by individually prior to the hearing). The Board also discussed any alternative locations for the bathroom addition. DiMeco stated there are no viable alternatives. McDonough made a motion to close the public hearing. Baime seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded deliberate. McDonough opposes the deck in deference to the neighbors, but supports the bathroom. Brown feels the proposal is reasonable & a natural extension of the existing house. He proposed the condition, if approved, to require the fence be relocated along the property line to the edge of the existing & proposed porch addition to provide screening. Ranalli agreed with McDonough being in support of the bathroom but not the deck. Baime spoke in favor of the proposal adding that the hardship for a variance is the orientation of the house on the lot & not the size of the lot. Anderson feels it needs a variance due to the increased encroachment into the setback adding that the Board doesn't usually grant variances for less than 5 feet. However he feels the proposal is modest & completely inoffensive. Only part of the deck will be within the existing setback of the bathroom & would help the functionality without adverse effect on the abutters or neighborhood. The balance of the project could be done as a special permit. Anderson asked for the Board's guidance. McDonough empathizes with petitioner and abutters. Anderson feels an 8'x8' addition with platform & steps is the lowest common denominator. Brown would suggested granting a variance for the 8'x8' addition and a special permit for the deck or landing with the condition that no portion of the deck/landing be any closer than the corner of the existing house and to require the extension of the 6' fence along the property line at least to the corner of the existing porch. The rear deck along the back of the house could be allowed with a landing to the back door. Anderson & Baime agreed with Brown. Anderson summarized the motion as granting a variance to square off the porch and a special permit to allow the deck/landing no closer than the exiting rear setback of 7.95' at the corner of the porch. McDonough & Ranalli expressed concern over the deck closest to the lot line. Brown made the motion to approve the variance for the 8'x8' bath/laundry room addition with the condition that it is no closer to the lot line than 4.83' at the rear and the existing dimension at the front with the condition that the fence is extended to the corner of the existing porch. McDonough seconded the motion & the Board voted (5-0) to approve the variance with conditions. Brown then made a motion to grant the special permit to permit that much of the deck as on the plan that does not require a variance (it shall be no closer than the existing back right corner of the house) and no larger than necessary to connect to the porch that can be built as a matter of right. Baime seconded the motion. The Board voted (3-2) (Ranalli & McDonough opposed) to grant the special permit. McDonough then made a motion to deny the balance of the variance for the part of the proposed deck that would encroach into the setback. Ranalli seconded the motion. Anderson clarified that there shall be no back entrance so that the Inspector of Buildings can issue a permit. Shae moved the amended motion & McDonough seconded the amended motion. The Board voted (5-0) to deny the balance of the variance for the deck that would encroach into the setback with the condition that there shall be no rear entry door. The Board denied all other relief without prejudice for coming back for 'by right' work that conforms to setbacks.

Discussion Item: Wild Rose Estates Drainage Issue

Anderson gave an update on a private dispute with Wild Rose Estates amongst neighbors: there is no issue with the ZBA decision as the condition is satisfied since the project has been connected.

There was a motion to adjourn & a second. The Board voted (5-0) to adjourn the meeting at 8:30 p.m.